

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RALPH M. MOHR

Plaintiff,

v.

Civil No.: 11-CV-559-S

ERIE COUNTY LEGISLATURE,
Barbara Miller-Williams, Chairperson,
Robert M. Graber, Clerk of the Legislature,
CHRISTOPHER C. COLLINS, as
County Executive of the County of Erie and
COUNTY OF ERIE,

Defendants.

**DECLARATION OF JEREMY A. COLBY CONCERNING MEMORANDUM
SUBMITTED ON BEHALF OF DEFENDANT ERIE COUNTY LEGISLATURE**

I am an attorney admitted to practice before the Courts of the State of New York and make the following Declaration under the penalties of perjury:

1. I am an attorney at law duly licensed to practice in this Court and am the Erie County Attorney, attorney for the Defendants, Chris Collins and County of Erie ("the County Defendants"), in the above-captioned action. I am familiar with the facts and circumstances of this litigation.

2. On August 3, 2011, the County Defendants were served with a memorandum on behalf of defendant Erie County Legislature ("the Legislature") by and through its attorney Brian Melber. *See* Docket Entry No. 35. This memorandum advocates for Local Law 5-1.

3. The County Defendants wish to clarify a statement made on page 9 of Mr. Melber's memorandum in which it is suggested that "Erie County" would welcome the opportunity to address any factual or legal matter identified by the Court. To be clear, Mr. Melber's submission was not filed on behalf of the County Defendants.

4. The County Defendants have not made a submission concerning the issues addressed in Mr. Melber's memorandum because they believed such submissions to be prohibited by this Court's August 2, 2011 Order (Docket Entry No. 34) striking Docket Entry No. 25 because the Court did not request such briefing.

Dated: August 4, 2011

/s/ Jeremy A. Colby
Jeremy A. Colby

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2011, I electronically filed the foregoing with the Clerk of the District Court using its CM/ECF system, which would then electronically notify the following CM/ECF participants on this case:

Marc C. Panepinto,
Sean Cooney,
Jeffrey Marion, and
Jerome Schad
Attorneys for Plaintiff Dennis Chapman
1600 Main Place Tower
350 Main Street
Buffalo, New York 14202
(716) 852-1888
mpanepinto@cldplaw.com
scooney@cldplaw.com
jeff@jeffmarionlaw.com
jerome.schad91@gmail.com

Brian M. Melber
Attorney for Defendant Erie County Legislature
Personius Melber, LLP
2100 Main Place Tower
Buffalo, New York 14202
bmm@personiusmelber.com

And, I hereby certify that I caused the foregoing to be hand delivered, to the following non-CM/ECF participants:

Ralph M. Mohr
134 West Eagle Street
Buffalo, New York 14202

Dennis E. Ward
134 West Eagle Street
Buffalo, New York 14202

/s/ Jeremy A. Colby
Jeremy A. Colby
Erie County Attorney
95 Franklin Street, Room 1634
Buffalo, New York 14202
(716) 858-2200